

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

**JONATHAN NUNEZ,**

**Petitioner,**

**v.**

**COMMONWEALTH OF  
PENNSYLVANIA,**

**Respondent.**

**Case No. 1:21-cv-240**

**MEMORANDUM ORDER**

This action was received by the Clerk of Court on August 26, 2021. The matter was referred to United States Magistrate Judge Richard A. Lanzillo, for report and recommendation in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrate Judges.

On March 2, 2022, Magistrate Judge Lanzillo issued a Report and Recommendation recommending that (1) the motion seeking leave to proceed in forma pauperis [ECF No. 4] be granted; (2) that the action be dismissed for failure to state a claim in accordance with 28 U.S.C. § 1915(e); and (3) Mr. Nunez's motion for summary judgment [ECF No. 7] be denied. ECF No. 9. Mr. Nunez filed Objections. ECF No. 10.

"If a party objects timely to a magistrate judge's report and recommendation, the district court must 'make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made.'" *EEOC v. City of Long Branch*, 866 F.3d 93, 99 (3d Cir. 2017) *quoting* 28 U.S.C. § 636(b)(1). Regardless of whether timely objections are made, district courts may accept, reject, or modify—in whole or in part—

the magistrate judge's findings or recommendations. 28 U.S.C. § 636(b)(1); Local Rule 72(D)(2).

Here, Mr. Nunez's Objections are a reiteration of his habeas petition (lodged at ECF No. 1-1), as well as his proposed complaint (at ECF No. 5).

After *de novo* review of the filings and documents in the case, together with the report and recommendation and objections thereto, the following order is entered:


AND NOW, this 31<sup>st</sup> day of March 2022;

IT IS ORDERED that the motion seeking leave to proceed in forma pauperis [ECF No. 4] be granted. The Clerk of Court is directed to file the "Petition for Writ of Habeas Corpus, Redress of Grievance, and Arbitration" [lodged at ECF No. 1-1] and "Amended Redress of Grievance, Receiving the Bonds in the Name of the Trust, & Arbitration" [lodged at ECF No. 5].

IT IS FURTHER ORDERED that that the action is dismissed for failure to state a claim in accordance with 28 U.S.C. § 1915(e).

IT IS FURTHER ORDERED that Mr. Nunez's motion for summary judgment [ECF No. 7] is denied.

AND FINALLY, IT IS ORDERED that the report and recommendation of Magistrate Judge Lanzillo, issued on March 2, 2022 [ECF No. 9] is adopted as the opinion of the court.

  
SUSAN PARADISE BAXTER  
United States District Judge